

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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JOSE ZAMORA,

Plaintiff,

v.

BEN GUITRREZ, et. al,

Defendants.

Case No. 2:20-cv-01619-GMN-EJY

ORDER

This action is a *pro se* civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a former state prisoner. On May 20, 2021, this Court issued an order denying the application to proceed *in forma pauperis* for prisoners as moot because Plaintiff was no longer incarcerated. (ECF No. 6). The Court ordered Plaintiff to file a fully complete application to proceed *in forma pauperis* for non-prisoners or pay the full filing fee of \$400.00 within 45 days from the date of that order. (*Id.*) The 45-day period has now expired, and Plaintiff has not filed an application to proceed *in forma pauperis* for non-prisoners, paid the full filing fee, or otherwise responded to the Court's order.

District courts have the inherent power to control their dockets and “[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal” of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action, with prejudice, based on a party's failure to prosecute an action, failure to obey a court order, or failure to comply with local rules.

1 See *Ghazali v. Moran*, 46 F.3d 52, 53-54 (9th Cir. 1995) (dismissal for noncompliance
 2 with local rule); *Ferdik v. Bonzelet*, 963 F.2d 1258, 1260-61 (9th Cir. 1992) (dismissal for
 3 failure to comply with an order requiring amendment of complaint); *Carey v. King*, 856
 4 F.2d 1439, 1440-41 (9th Cir. 1988) (dismissal for failure to comply with local rule requiring
 5 *pro se* plaintiffs to keep court apprised of address); *Malone v. U.S. Postal Service*, 833
 6 F.2d 128, 130 (9th Cir. 1987) (dismissal for failure to comply with court order); *Henderson*
 7 *v. Duncan*, 779 F.2d 1421, 1424 (9th Cir. 1986) (dismissal for lack of prosecution and
 8 failure to comply with local rules).

9 In determining whether to dismiss an action for lack of prosecution, failure to obey
 10 a court order, or failure to comply with local rules, the court must consider several factors:
 11 (1) the public's interest in expeditious resolution of litigation; (2) the court's need to
 12 manage its docket; (3) the risk of prejudice to the defendants; (4) the public policy favoring
 13 disposition of cases on their merits; and (5) the availability of less drastic alternatives.
 14 *Thompson*, 782 F.2d at 831; *Henderson*, 779 F.2d at 1423-24; *Malone*, 833 F.2d at 130;
 15 *Ferdik*, 963 F.2d at 1260-61; *Ghazali*, 46 F.3d at 53.

16 In the instant case, the Court finds that the first two factors, the public's interest in
 17 expeditiously resolving this litigation and the Court's interest in managing the docket,
 18 weigh in favor of dismissal. The third factor, risk of prejudice to Defendants, also weighs
 19 in favor of dismissal, since a presumption of injury arises from the occurrence of
 20 unreasonable delay in filing a pleading ordered by the court or prosecuting an action. See
 21 *Anderson v. Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor – public policy
 22 favoring disposition of cases on their merits – is greatly outweighed by the factors in favor
 23 of dismissal discussed herein. Finally, a court's warning to a party that his failure to obey
 24 the court's order will result in dismissal satisfies the "consideration of alternatives"
 25 requirement. *Ferdik*, 963 F.2d at 1262; *Malone*, 833 F.2d at 132-33; *Henderson*, 779 F.2d
 26 at 1424. The Court's order expressly warned Plaintiff that this case would not proceed
 27 unless Plaintiff paid the filing fee or submitted an application to proceed *in forma pauperis*
 28 for non-prisoners. (ECF No. 6).

1 It is therefore ordered that this action is dismissed without prejudice based on
2 Plaintiff's failure to file an application to proceed *in forma pauperis* for non-prisoners or
3 pay the full filing fee in compliance with this Court's May 20, 2021 order. If Plaintiff wishes
4 to pursue any claims, he must file a complaint in a new action with the required fee or
5 application to proceed *in forma pauperis* for non-prisoners.

6 It is further ordered that the Clerk of Court shall enter judgment accordingly and
7 close this case.

8 DATED THIS 16 day of July 2021.

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12 GLORIA M. NAVARRO
13 UNITED STATES DISTRICT JUDGE
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